

Rejournals
6-11-19

**INTERNAL
OPERATIONS
STANDING
COMMITTEE**



CITY OF DETROIT
LAW DEPARTMENT

COLEMAN A. YOUNG MUNICIPAL CENTER
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April 2, 2019

HONORABLE CITY COUNCIL

RE: Advanced Surgery Center, LLC v City of Detroit
Case No: 17-014875-NF
File No: L17-00714(SVD)

We have reviewed the above-captioned lawsuit, the facts and particulars of which are set forth in a confidential memorandum that is being separately hand-delivered to each member of Your Honorable Body. From this review, it is our considered opinion that a settlement in the amount of **Twelve Thousand Dollars and ^{NO}/Cents (\$12,000.00)** is in the best interest of the City of Detroit.

We, therefore, request authorization to settle this matter in the amount of **Twelve Thousand Dollars and ^{NO}/Cents (\$12,000.00)** and that Your Honorable Body direct the Finance Director to issue a draft in that amount payable to Advanced Surgery Center, LLC and their attorney, **Koussan Hamood, PLC**, to be delivered upon receipt of properly executed Releases and Stipulation and Order of Dismissal entered in Lawsuit No. 17-014875-NF, approved by the Law Department.

Respectfully submitted,

Sarah V. Domin
Assistant Corporation Counsel

APPROVED: **APR 02 2019**

LAWRENCE GARCIA
Corporation Counsel

BY:
KRYSTAL A. CRITTENDON
Supervising Assistant Corporation Counsel

Attachments

CITY CLERK 2019 JUN 6 AM 9:52

R E S O L U T I O N

BY COUNCIL MEMBER _____:

RESOLVED, that settlement of the above matter be and is hereby authorized in the amount of **Twelve Thousand Dollars and ^{NO}/Cents (\$12,000.00)**; and be it further

RESOLVED, that the Finance Director be and is hereby authorized and directed to draw a warrant upon the proper account in favor of Advanced Surgery Center, LLC and their attorney, **Koussan Hamood, PLC**, in the amount of **Twelve Thousand Dollars and ^{NO}/Cents (\$12,000.00)** in full payment for any and all claims which Advanced Surgery Center, LLC may have against the City of Detroit and any other City of Detroit employees by reason of treatment provided to Matthew Tutt for injuries sustained in a DDOT bus crash on or about December 28, 2016, and that said amount be paid upon receipt of properly executed Releases, Stipulation and Order of Dismissal entered in Lawsuit No.17-014875-NF and, where it is deemed necessary or desirable by the Law Department, a properly executed Medicare Reporting and Indemnification Affidavit, approved by the Law Department.

APPROVED:

LAWRENCE GARCIA
Corporation Counsel

BY: 

KRYSTAL A. CRITTENDON
Supervising Assistant Corporation Counsel



2p

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June 5, 2019

Honorable City Council

Subject: **Request to Amend the Official Compensation Schedule**

Recommendation is submitted to amend the 2018 – 2019 Official Compensation Schedule to include the following pay ranges, subject to City Council approval:

Class Code	Classification	Salary Range
22-20-40	Data Analyst	\$55,667 - \$77,933
22-20-50	Data Quality Management Specialist	\$44,750 - \$62,650

Request:

The above recommendations are at the request of Angelique Rodriguez-Edge from the Health Department.

Rationale:

The above request and recommendations are based on the ability to attract and retain essential personnel to staff the Ryan White HIV/STI Program of the Health Department.

The SEMHA (Southeast Michigan Health Association) federal contract is due to end June 30, 2019. It has been determined that it is in the City's best interest that the Ryan White HIV/STI Program be moved in-house. This transition is necessary to ensure that the program is more cost effective, operates more efficiently, and adheres to regulatory guidelines.

To determine the appropriate salary ranges for the classifications, a market study was conducted using data from external survey sources. The proposed salaries are essential for recruitment and retention purposes and are based on the City of Detroit's ability to fund the increase. The proposed salary recommendations are subject to City Council approval.

Respectfully submitted,

Denise Starr
Human Resources Director

DS/bvt

Attachments

cc: Budget Department
Mayor's Office

CITY CLERK 2019 JUN 5 PM 1:50

BY COUNCIL MEMBER _____

RESOLVED, That the 2018 - 2019 Official Compensation Schedule is hereby amended to reflect the following pay ranges, effective upon Council's approval.

Class Code	Classification	Salary Range
22-20-40	Data Analyst	\$55,667 - \$77,933
22-20-50	Data Quality Management Specialist	\$44,750 - \$62,650

RESOLVED, That the Finance Director is hereby authorized to honor payrolls and vouchers in accordance with this resolution, the above communication and standard City of Detroit practices.

City of Detroit
Classification/Compensation Division
Classification/Compensation Notification Form

Requesting Department: <u>Health</u>	Division: <u>HIV/STI Programs</u>									
Requester Name: Angelique Rodriguez-Edge, Health Department										
Date of Receipt: <u>5/20/2019</u>										
Work Order Number <u>#2019-127</u>	P.L.#: _____									
Action Taken										
<input type="checkbox"/> Specification Maintained <input type="checkbox"/> Specification Updated <input type="checkbox"/> New Specification <input checked="" type="checkbox"/> Other: <u>New Classifications and Salary Adjustment</u>	<input type="checkbox"/> Position Maintained <input type="checkbox"/> Position Reallocated <input type="checkbox"/> Positions Allocated <input type="checkbox"/> Position Deletion									
Explanation: This is to advise you that the Human Resources Department concurred in the following recommendations:										
1. The titles and codes of the following new classifications be adopted: <ul style="list-style-type: none">• Data Analyst (22-20-40)• Data Quality Management Specialist (22-20-50)										
2. The 2018 - 2019 Official Compensation Schedule be amended to include the following pay ranges:										
<table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th style="width: 15%;">Class Code</th><th style="width: 45%;">Classification</th><th style="width: 40%;">Salary Range</th></tr></thead><tbody><tr><td>22-20-40</td><td>Data Analyst</td><td>\$55,667 - \$77,933</td></tr><tr><td>22-20-50</td><td>Data Quality Management Specialist</td><td>\$44,750 - \$62,650</td></tr></tbody></table>		Class Code	Classification	Salary Range	22-20-40	Data Analyst	\$55,667 - \$77,933	22-20-50	Data Quality Management Specialist	\$44,750 - \$62,650
Class Code	Classification	Salary Range								
22-20-40	Data Analyst	\$55,667 - \$77,933								
22-20-50	Data Quality Management Specialist	\$44,750 - \$62,650								
SUBJECT TO CITY COUNCIL APPROVAL										
Classification/Compensation Analyst: <u>Brenda VanTull</u> <i>Brenda VanTull</i>	Date: <u>6/5/19</u>									
Chief Classification/Compensation Officer: <u>Nicole Smith</u> <i>Nicole Smith</i>	Date: <u>6/5/19</u>									
Human Resources Director: <u>Denise Starr</u> <i>Denise Starr</i>	Date: <u>6/6/19</u>									

CC: Labor Relations
Payroll Audit
Budget
Ulti Updates

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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director
Legislative Policy Division Staff

RE: Impact of Plan of Adjustment and Emergency Manager Orders on 2012 Charter

DATE: June 7, 2019

The Legislative Policy Division (LPD) reviewed the orders issued by the Emergency Manager during his 2013-2014 tenure to analyze their continuing impact on Detroit City government operations and their potential relevance to the Charter revision process. The following report provides background information, as well as discussion of the orders, their ongoing legal significance, and potential revision of the orders. This report supplements LPD's November 27, 2018 memorandum entitled, *Charter Revision: Overview and Issues*.

BACKGROUND

On March 28, 2013, Governor Rick Snyder's appointment of Kevyn Orr as Emergency Manager (EM) of the City of Detroit took effect, pursuant to Michigan Public Act 436 of 2012, the Local Financial Stability and Choice Act, MCL 141.1541, *et seq.* (the Act). By the summer of 2013, under Mr. Orr's leadership, the City was in Chapter 9 (municipal) bankruptcy proceedings, which ultimately resulted in the Court's approval of the *Plan for the Adjustment of Debts of the City of Detroit* (POA), effective December 10, 2014.

During Mr. Orr's tenure, he issued forty-four (44) "Emergency Manager Orders" to effectuate his plan "to address [the City's] financial emergency, restore financial stability, and ensure the

continuity of services essential to the public health, safety and welfare”.¹ Several of the EM Orders were issued in response to restructuring mandated by the Bankruptcy Court’s order – the POA; others were merely administrative in nature.

Section 21 of the Financial Stability Act, MCL 141.1561(2), specifically addresses the potential duration of the EM’s Orders as follows:

After the completion of the emergency manager's term and the termination of receivership, the governing body of the local government shall not amend the 2-year budget adopted under subsection (1) without the approval of the state treasurer, and **shall not revise any order or ordinance implemented by the emergency manager during his or her term prior to 1 year after the termination of receivership.** (Emphasis added.)

On its face, therefore, the statute states that one year after the termination of the EM’s appointment, the terms of his orders can be changed (or “revised”). It should be emphasized that this power belongs exclusively to City Council.² Paragraph 30 of EM Order No. 44 (the final order) spells out the process for revision of the orders as, “by resolution of the Council, approved by the Mayor and ratified by the Commission pursuant to Section 7(n) or 7(o) of PA 181.” The “Commission” refers to the Financial Review Commission (FRC), although the City is no longer actively subject to FRC review. The EM’s tenure was terminated on the effective date of the Plan of Adjustment and the City’s emergence from bankruptcy, December 10, 2014. Therefore the **EM’s Orders were eligible for modification by City Council as of December 11, 2015.** Understandably, the potential for revision or revocation cannot be exercised where to do so would undermine the execution of the bankruptcy Plan of Adjustment.

Finally, if no action is taken, the EM Orders continue in effect indefinitely. Some of the Orders alter the operations of City departments as currently dictated by the Charter, and therefore should be considered when revising the 2012 Charter.

THE 44 EMERGENCY ORDERS AND THEIR STATUS

Following a meeting of the Detroit City Council on April 5, 2016, at which City Council assessed the status of the forty-four orders issued by Emergency Manager Kevyn Orr, the Legislative Policy Division (LPD) was asked to provide a summary of the status of the orders and any proposed action.

¹ See Emergency Manager Order No. 1.

² See, e.g., *Detroit City Council v Mayor of Detroit*, 283 Mich App 442 (2009), interpreting very similar language in the Regional Convention Facility Authority Act, and holding that that Act “did not authorize a mayoral veto of the council’s resolution, disapproving the transfer of the city convention center to a regional convention facility authority.” The notion of the exclusivity of City Council’s authority to revise the EM orders would logically extend to preclude the newly impaneled Charter Revision Commission from revising the orders despite its authority to draft revisions to the Charter.

The list below, indicates the number, date of issuance, and title of each order, and briefly summarizes the conclusions reached as to each order. Subsequent action by Council to revise the orders is also noted.

1. **Restoration of Salary and Benefits of Mayor and City Council, March 25, 2013** – *This order was specifically rescinded by EM Order No. 42.*
2. **Approval of Financial Contribution by Corporate Donors of Ambulances and Police Cruisers, April 1, 2013** – *Gift received – no further action required.*
3. **Authorization for the Detroit Mayor and City Council to Conduct the Day-to-Day Business of the City, April 11, 2013** – *This order was specifically rescinded by EM Order No. 42.*
4. **Approval of the Contract for Professional Legal Services Between the City of Detroit and Jones Day, April 23, 2013** – *The Law Department indicated that the City no longer has a professional relationship with the Jones Day Law Firm.*
5. **Restrictions on Transfer of Real Property Owned by the City of Detroit, April 25, 2013** – *The requirement that the EM must approve such transactions was rescinded by EM Order No. 42, paragraph 11, except for Plan of Adjustment transactions.*
6. **Approval of the Initial Funding Agreement for the Public Lighting Authority, May 2, 2013** – *Fiscal implications preclude revision (pursuant to the Plan of Adjustment) in the absence of alternative funding sources for the PLA. ***NOTE: EM Orders 6 and 14 must be considered when revising Article 7, Chapter 9 of the 2012 Charter – Public Lighting.*
7. **Coordination of Housing and Urban Development Appropriations, May 20, 2013** – *This order was specifically rescinded by EM Order No. 42, paragraph 12.*
8. **Joint Investigation by the Inspector General and Auditor General Into Possible Waste, Abuse, Fraud, and Corruption Associated with the City's Employee Benefit Programs, June 20, 2013** – *This order was specifically rescinded by EM Order No. 42, paragraph 13.*
9. **Order Modifying Orders Nos. 1 and 3, June 27, 2013** – *There is no further action to be taken with respect to the Mayor's and City Council's salaries, i.e., there is nothing to be undone.*
10. **Order Suspending the Charter Requirement to Fill Vacancies on the Detroit City Council, July 8, 2013** – *This order was specifically rescinded by EM Order No. 42.*
11. **Order Appointing James Craig Chief of Police of the City of Detroit Police Department, July 10, 2013** – *No further action is required with respect to the*

appointment of Chief Craig; Additionally, on September 29, 2015, City Council unanimously passed a resolution fully restoring the Charter mandated powers of the Detroit Board of Police Commissioners, which include the responsibility to conduct a professional search for candidates for the position of Chief (Charter Section 7-805).

12. **Order Adopting Fiscal Year 2014 Budget as Previously Approved by the Detroit City Council and as Amended by the Emergency Manager, July 10, 2013** – *This order adopted the FY 2014 budget; no further action is required.*
13. **Filing of a Petition Under Chapter 9 of Title 11 of the United States Code, July 18, 2013** – *No action is required –The City’s Chapter 9 bankruptcy petition was filed in July 2013 and the Plan of Adjustment was confirmed by the Court, effective December 10, 2014.*
14. **Approval of Trust Agreement Between and Among the City of Detroit, the Public Lighting Authority, and the Trustee, August 1, 2013** – *This order established a trust agreement as a mechanism for funding the PLA. Fiscal implications preclude revision of this order (under the Plan of Adjustment) in the absence of alternative funding sources.*
15. **Order Suspending Certain City Wrecking Requirements to Address Blight, August 29, 2013** – *The provisions of this Order have been revised.*
16. **Order Directing Certain City Employees to Provide Information to the Emergency Manager, September 25, 2013** – *This order sought financial information regarding the City’s retirement system and is no longer relevant; no action required.*
17. **Approval of Postpetition Financing, October 11, 2013** – *No action is required as this financing was required by the Plan of Adjustment.*
18. **Approval of Certain Agreements Related to the Public Lighting Authority, October 23, 2013** – *The agreements approved by this order provide funding for the PLA. Fiscal implications preclude revision (under the Plan of Adjustment) in the absence of alternative funding sources. ***NOTE: EM Orders 6 and 14 must be considered when revising Article 7, Chapter 9 of the 2012 Charter – Public Lighting (PLD), i.e., the existence of the newly formed Authority and the resulting diminished role of PLD.*
19. **Order Eliminating Budget-Required Furloughs Affecting Certain Non-Union City Employees, November 13, 2013** – *This order terminated furlough days for certain employees; no further action is required.*
20. **Order Restoring the Salary and Benefits of the Mayor and Adopting the Agreement Between the Emergency Manager and Mayor Duggan Concerning Delegations of Authority and Transition Protocols, December 30, 2013** – *This order was specifically rescinded by EM Order No. 42.*

21. **Order Approving Pension Freeze for City Employees, December 30, 2013** – *Orders No. 21 and 23 were interim actions taken while the new pension plans were in the process of being finalized and implemented. Subject to the terms of the Plan of Adjustment, there is no action to be taken.*
22. **Order Ratifying and Approving Resolution of the Board of Water Commissioners Authorizing Publication of Notice of Intent to Issue Sewage Disposal System Revenue Bonds, January 30, 2014** – *The notice of intent referenced in this order triggers a 45 day referendum period during which time citizens may petition to oppose the issuance of the bonds. There is no further action required.*
23. **Order Modifying Order No. 21, February 3, 2014** – *Orders No. 21 and 23 were interim actions taken while the new pension plans were in the process of being finalized and implemented. Subject to the terms of the Plan of Adjustment, there is no action to be taken.*
24. **Order to Amend Chapter 55 of the 1984 Detroit City Code, April 3, 2014** – *The increased parking violations resulting from this amendment of the Code have significant fiscal implications and are required under the Plan of Adjustment.³*
25. **Order to Amend Chapter 54 of the 1964 Detroit City Code and Chapter 47 of the 1984 Detroit City Code, June 16, 2014** – *This order effectuates (after publication) a series of ordinances revising the City's pension plans. Fiscal implications preclude revision of the pension plans (pursuant to the Plan of Adjustment) in the absence of alternative funding sources for pensions.*
26. **Order to Amend Chapter 47 of the 1964 Detroit City Code, June 16, 2014** - *This order effectuates (after publication) a series of ordinances revising the City's pension plans. Fiscal implications preclude revision of the pension plans (pursuant to the Plan of Adjustment) in the absence of alternative funding sources for pensions.*
27. **Order Establishing Grants Management Department, June 27, 2014** – *No action is required. ***NOTE: City Council could consider the merits of recommending to the Charter Revision Commission the inclusion of the Grants Management Department in a revised Charter.*
28. **Order Implementing Wage Increases for Certain Non-Union City Employees, June 30, 2014** – *This order effectuated a one-time 5 percent wage increase. No action is required.*

³ Allegations that the Order was not effectuated in a procedurally correct manner resulted in a now dismissed legal challenge and a retroactive correction by the City. A revision of the City Code to offer a parking fine discount to City residents for early payment is pending before the Council as of the date of this writing.

29. **Order to Adopt and Provide for Implementation of the Combined Plan for the Police and Fire Retirement System of the City of Detroit, Michigan, June 30, 2014** – *No action required; Fiscal implications preclude revision of the pension plans (under the Plan of Adjustment) in the absence of alternative funding sources.*
30. **Order to Adopt and Provide for Implementation of the Combined Plan for the General Retirement System of the City of Detroit, Michigan, June 30, 2014** – *No action required; Fiscal implications preclude revision of the pension plans (under the Plan of Adjustment) in the absence of alternative funding sources.*
31. **Order Supplementing Order No. 20, July 28, 2014** – *This order was specifically rescinded by EM Order No. 42.*
32. **Order Directing the Office of Homeland Security and Emergency Management to Report to the Mayor, August 19, 2014** – *DHS is now part of the Mayor's Office, as acknowledged in the Executive Organization Plan (EOP); it was transferred from the Detroit Police Department (DPD). Placement of Homeland Security in the Mayor's office allows for greater flexibility and fluidity than would be the case if this function was defined by the Charter. Alternatively, City Council could advocate to the Charter Revision Commission for specific DHS placement.*
33. **Order Suspending Certain City Demolition Requirements to Address Blight, August 21, 2014** – *This order addresses the standards for fill procedures in the demolition process as included in the City Code.*
34. **Order Approving the Articles of Incorporation of Great Lakes Water Authority and Related Transactions, September 9, 2014** – *The GLWA has been established; no further action is required with respect to the EM Order. ***NOTE: The existence of GLWA directly impacts the operation of the Department of Water and Sewerage as it exists per the 2012 Charter. LPD has prepared, and can provide, detailed reporting with respect to ongoing conflicts between existing Charter language and DWSD's recent practices.*
35. **Order to Amend Chapter 18 of the 1964 Detroit City Code, September 16, 2014** – *This order with respect to approval of grant applications was repealed by EM Order No. 37.*
36. **Order to Repeal Chapter 14, Article VI of the 1964 Detroit City Code, September 22, 2014** – *This order repeals the City Code provisions establishing Citizens' District Councils. LPD drafted a proposed ordinance reinstating Citizens' District Councils, extinguished pursuant to this order; however, no action was taken to do so.*
37. **Order Modifying, Amending, Replacing, Supplementing, and Otherwise Revising Emergency Manager Order No. 35, September 25, 2014** – *Revises EM Order No. 35.*

No action necessary. Alters the means by which a grant application is submitted and approved. See #27 above.

38. **Order Modifying Planning and Development Department and Establishing Housing and Revitalization Department, September 25, 2014** –*City Council subsequently passed a resolution requiring confirmation of the appointment of the HRD Director. The order reorganized P&DD such that “all finance, accounting, and grant management positions” were transferred to the OCFO (See, paragraph 8).*
39. **Order to Create the Department of Information and Technology, September 25, 2014** – *The order creates the department as part of the City’s restructuring. No action required; Fiscal implications preclude revision (under the Plan of Adjustment) in the absence of alternative funding sources.*
40. **Order Restructuring the Human Resources Department, September 25, 2015** – *This order provides for complete restructuring of the Human Resources Department, delegating significant authority to the HR Director to create positions, determine salaries, and review all existing civil service rules. City Council initially sought more information regarding the impact of restructuring on the civil service system and the policy direction of the department’s restructuring. Similar restructuring authority was delegated to both the CFO and the Director of P&DD.*
41. **Order Establishing Centralized Financial Management and Organizational Structure, September 25, 2014** – *The appointment of a Chief Financial Officer is required by Public Act 181 of 2014. This order creates the Office of the Chief Financial Officer with control over “the City’s activities relating to budgets, financial plans, financial management, grants management, financial reporting, financial analysis, and compliance with the budget and financial plan of the City.” (See, paragraph 3.) Fiscal implications preclude revision under the Plan of Adjustment.*
42. **Order Addressing Issues Relating to the Conclusion of the Emergency Manager’s Tenure and Transition of City Operations to the Mayor and City Council, September 25, 2014** - *Fiscal implications preclude repeal of orders affecting implementation of the Plan of Adjustment, however City Council repealed/revised aspects of paragraph 6 impacting the City Charter, including restoring the Law Department to its Charter mandated independent status. Council previously restored the Detroit Police Commission’s authority in full, addressed in paragraph 8 of EM Order No. 42.*
43. **Order to Adopt the Amended and Restated Combined Plan for the General Retirement System of the City of Detroit, Michigan, and Amended and Restated Combined Plan for the Police and Fire Retirement System of the City of Detroit, Michigan, October 19, 2014** - *Fiscal implications preclude revision (pursuant to the Plan of Adjustment) in the absence of alternative funding sources for pensions. Copies of the pension plan ordinances must be made available in the City Clerk’s office.*

44. **Final Emergency Manager Order, December 8, 2014** – *This order addresses final bankruptcy related matters, as well as potential liability issues pertaining to the performance of the EM.*

EM ORDERS REVISED TO DATE

On September 25, 2014, in anticipation of the end of his tenure, EM Kevyn Orr issued Order No. 42, *Order Addressing Issues Relating to the Conclusion of the Emergency Manager's Tenure and Transition of City Operations to the Mayor and City Council*, providing that "certain provisions of previous EM Orders shall be modified, revoked or supplemented." The Order left Mr. Orr with broad authority to take any necessary action to manage the bankruptcy and implement the POA, until the conclusion of his tenure in? December 2014 (see, paragraph 3).

Paragraph 6 of the Order provided the Mayor with broad restructuring powers for the executive branch. Paragraph 7 specifically permits the Mayor to grant department heads "the authority to make hiring, retention, promotion, demotion, reassignment and any other related personnel decisions affecting their departments", "notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance or practice to the contrary". Paragraph 8 restored limited authority to the Board of Police Commissioners.

On September 29, 2015, City Council unanimously passed a resolution **fully** restoring the Charter mandated powers of the Board of Police Commissioners (BOPC), with an effective date of December 11, 2015.

On May 17, 2016, City Council unanimously passed a resolution amending EM Order No. 41, which established a "centralized financial management organizational structure" (OCFO) pursuant to Public Act 181 of 2014 and granted sweeping powers to the City's Chief Financial Officer (CFO). The resolution fully restored Council's contract approval authority as well as its authority to approve the write-off of accounts receivable.

On May 17, 2016, the City Council unanimously passed a resolution amending EM Order No. 42, revoking the expanded reorganizational authority enumerated in paragraph 6 (that is contrary to the provisions of Charter sections 7-102 through 7-104), with the exception of the powers of the newly established OCFO. In addition, the resolution reinstated the independence of the Law Department as provided for in Article 7.5 of the 2012 Charter.

Finally, on May 17, 2016, City Council unanimously passed a resolution amending EM Order No. 38, which established the Housing and Revitalization Department (HRD), to require that the appointment of a director of HRD be subject to Council confirmation in the same manner as the director of the Planning and Development Department.

ORDERS TO BE CONSIDERED FOR INCORPORATION INTO A REVISED CHARTER

Article 7, Chapter 12 of the 2012 Charter of the City of Detroit addressed the Department of Water and Sewerage. The structure and function of the department has been entirely changed by

actions of the EM and pursuant to the POA. The Great Lakes Water Authority was established, pursuant to EM Order No. 34, altering the power and functioning of DWSD. With respect to DWSD, Charter language should be clarified to emphasize that **City Council approval of water rates, its annual budget and contracts, are indeed requirements**, in a manner largely consistent with all other City departments. Such a requirement serves to protect the citizens by allowing input into the process, and although it is currently the law per the Charter, DWSD has not complied with these basic actions since the establishment of GLWA; in essence, allow this City department to function, more or less like an authority.

Article 7, Chapter 9, covers the “Public Lighting Department” as it existed when the Charter was adopted. EM Orders No. 6 and 18 established the Public Lighting Authority, undermining the functioning of the PLD.

The new Office of the Chief Financial Officer (OCFO) now encompasses much of Article 6 of the 2012 Charter, *Executive Branch: Staff Departments*. Likewise, the Planning and Development Department (P&DD) and Human Resources (HR) have been subject to restructuring that may need to be considered when reviewing Chapters 2 and 4 of Article 6. In addition, the newly carved out Housing and Revitalization Department might be added to Article 6.

Finally, the new DoIt and Grants Management Departments, created pursuant to EM Orders No. 39 and 27 although not required to be included in the Charter, may be considered for inclusion.

RECOMMENDATIONS OF ORDERS TO BE REVISED

Although significant portions of EM Order No. 42 (conclusion of the EM’s tenure, etc.) have been addressed, paragraph 7 (described above) has not been revised and is ripe for revocation. Paragraph 7 provides as follows:

Notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance or practice to the contrary, including, but not limited to, the City’s Civil Service Rules, and with the approval of the Mayor and the Council in coordination with the Human Resources Department, the City may implement departmental restructurings not inconsistent with any other EM Order. These restructurings may grant department heads the authority to make hiring, retention, promotion, demotion, reassignment and any other related personnel decisions affecting their departments, in consultation with the Human Resources Department. Such reorganizatons shall comply with the terms of applicable collective bargaining agreements and provide required notices to impacted employees and labor unions.

This blanket authority to the Administration to implement restructuring outside of the routine, regulated course of government business is not necessary or prudent on an ongoing basis. The City is now almost five years out from the confirmation of the POA and in position to return to operations without the use of such extraordinary administrative remedies. EM Orders No. 38, P&DD, 40, HR, and 41, OCFO, also include similarly broad restructuring authority; City Council may consider curtailing the effect of those Orders as well. Proposed resolutions

terminating the unlimited restructuring authority provided by EM Orders No. 38, 40, 41, and 42 are attached to this report, for Council's consideration. (See, attachments.)

EM Order No. 36, dated September 22, 2014, simply repealed Chapter 14, Article VI of the Detroit City Code. That ordinance established Citizens District Councils (CDCs) for purposes of "Community Development", pursuant to Public Act 344 of 1945, MCL 125.71 *et seq.* As his reason for EM Order No. 36, the EM rather cryptically stated:

The powers granted to the City in accordance with PA 344, and the implementation of such powers pursuant to Article VI, no longer align with the City's urban renewal strategy, and, in some cases, present a barrier to the effective and efficient development of blighted areas of the City...

Like the BOPC, the issue of maintaining or eliminating CDCs implicates the status and functioning of a local elected body accountable to the people of Detroit, and involves one of the most pressing areas of quality of life in the City. LPD has suggested in the past that, if the Council so desired, the City could theoretically simply reinstate Chapter 14, Article VI of the Detroit City Code, the same provisions repealed by the EM. Alternatively, if Council, in consultation with the Administration were to prefer a revised version of CDCs that they deem to be better "align[ed] with the City's urban renewal strategy", a new ordinance incorporating that policy could be introduced and enacted.

Attachments

**RESOLUTION TO FURTHER REVISE EMERGENCY MANAGER ORDER NO.
38, ORDER MODIFYING PLANNING AND DEVELOPMENT DEPARTMENT AND
ESTABLISHING HOUSING AND REVITALIZATION DEPARTMENT**

- WHEREAS** In September 2014, as the Emergency Manager prepared to transition from his position (and as the City’s bankruptcy proceedings were drawing to a close), he issued Emergency Manager Order No. 42 restoring much of the power to the executive and legislative branches of City government, as well as Emergency Manager Orders No. 38, 39, 40 and 41 to expedite the restructuring of various City departments; and
- WHEREAS** Emergency Manager Order No. 38, *Order Modifying Planning and Development Department and Establishing Housing and Revitalization Department*, “determined that it is appropriate to establish a new Housing and Revitalization Department (the ‘HRD’) to perform certain functions previously performed by the Planning and Development Department [PDD]”; and
- WHEREAS** EM Order No. 38 grants the Mayor authority to establish the HRD and appoint a Director. As specified in paragraphs 4 through 7 of the order, HRD “shall strategically manage the City’s Federal entitlement and related resources”, “lead initiatives to attract public and private investment in city neighborhoods using public land and financing”, “invest the City’s entitlement funds in affordable, mixed income and mixed-use housing developments and related public improvements in addition to leading the planning associated with Community Development Block Grants, Emergency Solutions Grant Program, HOME funds and Neighborhood Opportunity Fund” – that is, “the PDD and the PDD Director shall no longer perform the functions set forth in paragraphs 4, 5, 6, and 7 of this Order”; and
- WHEREAS** Public Act 436 of 2012, specifically MCL 141.1561(2), provides “[a]fter the completion of the emergency manager's term and the termination of receivership, the governing body of the local government shall not amend the 2-year budget adopted under subsection (1) without the approval of the state treasurer, and shall not revise any order or ordinance implemented by the emergency manager during his or her term prior to 1 year after the termination of receivership.”
- WHEREAS** By City Council resolution unanimously adopted on May 17, 2016, EM Order No. 38 was revised to give City Council confirmation authority over the appointment of the HRD Director, consistent with Section 4-111 of the 2012 Charter of the City of Detroit, given that HRD was carved out of PDD, whose Director is specifically subject to Council confirmation per the Charter; and

WHEREAS With the City now nearly five years past its exit from bankruptcy and emergency management, and as the Mayor and City Council work effectively to advance the City's recovery, including implementation of the Plan of Adjustment, it is time to fully restore essential checks and balances and transparency to the operations of City government; and

WHEREAS Paragraph eleven (11) of EM Order No. 38, like EM Orders 40, 41, and 42, grants ongoing, continuing restructuring authority to the HRD and PDD Directors to ignore "City and human resources rule, regulation, policy, agreement, ordinance, or practice to the contrary, including, but not limited to, the City's Civil Service Rules" to allow the directors to "determine placement of all positions", "create and modify job titles, roles, responsibilities and positions", and to "make recruitment, hiring, retention, promotion, demotion, reassignment and any other related personnel decisions" affecting HRD and PDD; and

WHEREAS Paragraph twelve (12) of EM Order No. 38 similarly grants blanket authority to the HRD and PDD Directors, with the approval of the Mayor, to modify the organizational components and functions of HRD and PDD; and

WHEREAS Paragraph fifteen (15) of EM Order No. 38 provides the following unbridled authority with respect to City-owned commercial property:

Notwithstanding any City Charter provision, regulation, policy, agreement, ordinance, or practice to the contrary, the PDD Director, subject to the approval of CFO, may enter into a contract with the Detroit Building Authority with respect to the management of any City-owned commercial property. Any transfer of City-owned property to the Detroit Building Authority can only be accomplished with City Council approval.

This ongoing, unilateral contractual authority is no longer justifiable and transparency concerns require its termination; and

WHEREAS The revision of EM Order No. 38 to restore the rule of pre-Emergency Management law to the City, including, but not limited to, adherence to the Charter, City Code, Civil Service Rules, will not impact the success of the Plan of Adjustment. **NOW THEREFORE BE IT**

RESOLVED Recognizing that by 2019, the City has derived any necessary restructuring benefits from the liberal provisions of EM Order No. 38, the Detroit City Council hereby revokes the above described extraordinary authority granted by paragraphs eleven, twelve and fifteen of the Order and restores the pre-emergency management rule of law. **AND BE IT FURTHER**

LPD: June 7, 2019

RESOLVED That a copy of this resolution shall be transmitted to the Director of the Housing and Revitalization Department, the Director of the Planning and Development Department, and Mayor Mike Duggan.

**RESOLUTION TO REVISE EMERGENCY MANAGER ORDER NO. 40, *ORDER
RESTRUCTURING THE HUMAN RESOURCES DEPARTMENT***

WHEREAS In September 2014, as the Emergency Manager prepared to transition from his position (and as the City's bankruptcy proceedings were drawing to a close), he issued Emergency Manager Order No. 42 restoring much of the power to the executive and legislative branches of city government, as well as Emergency Manager Orders No. 38, 39, 40 and 41 to expedite the restructuring of various City departments; and

WHEREAS Emergency Manager Order No. 40, *Order Restructuring the Human Resources Department*, dictated a new organizational structure for the Department (paragraph 4), established five (5) supervisory positions, and gave the Human Resources (HR) Director broad authority to: set initial compensation, create subordinate positions, create a new classification and compensation system for the City, create a performance management system for the City, review the Civil Service Rules, and create a Center for Workforce Development (paragraphs 5-12); and

WHEREAS Like EM Orders 38, 41, and 42, EM Order No. 40 contains broad, ongoing restructuring provisions, granting the HR Director unbridled restructuring authority -- no longer necessary almost five years post-Emergency Management/Receivership. The provision, paragraph 13, reads as follows:

Notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance, or practice to the contrary, including, but not limited to, the City's Civil Service Rules, the HR Director shall have the authority to:

- a. Determine the placement of all human resources positions, including the selection and removal of incumbents, within the HR Department;
- b. Create or modify job titles, roles, responsibilities and positions in support of the City's human resources functions, within the HR Department and other City departments, divisions and agencies; and
- c. Make recruitment, hiring, retention, promotion, demotion, reassignment and any other related personnel decisions affecting the City's human resources functions.

In all events, the HR Director shall comply with the terms of applicable collective bargaining agreements and provide required notices to impacted employees and labor unions, if applicable. . . . ;

and

WHEREAS The City of Detroit's receivership status was terminated upon the completion of the City's bankruptcy case on the effective date of the Plan of Adjustment, December 10, 2014. Pursuant to Public Act 436 of 2012, City Council may amend orders implemented by the emergency manager one (1) year after the termination of receivership; and

WHEREAS With the City now nearly five years past its exit from bankruptcy and emergency management, and as the Mayor and City Council work effectively to advance the City's recovery, including implementation of the Plan of Adjustment, it is time to fully restore essential checks and balances and transparency to the operations of City government; and

WHEREAS The revision of EM Order No. 40 revoking the blanket, continued restructuring authority to the HR Director, unlimited by the City's Civil Services Rules, human resources rules, regulations, policy, agreement, etc., will not impair the City's fiscal recovery. Reverting to a more transparent, pre-Emergency Management, manner of managing the City's HR functions, after almost five years of unhindered restructuring activity, will have no negative effects on the City's fiscal health or continued success of the Plan of Adjustment. **NOW THEREFORE BE IT**

RESOLVED The Detroit City Council hereby revokes the continued restructuring authority granted to the HR Director by EM Order No. 40, specifically contained in paragraphs thirteen (13). **AND BE IT FURTHER**

RESOLVED That a copy of this resolution shall be transmitted to the HR Director, the Chief Financial Officer and the Mayor's Office.

**RESOLUTION TO FURTHER REVISE EMERGENCY MANAGER ORDER NO.
41, *ESTABLISHING CENTRALIZED FINANCIAL MANAGEMENT
ORGANIZATIONAL STRUCTURE***

- WHEREAS** In September 2014, as the Emergency Manager prepared to transition from his position (and as the City’s bankruptcy proceedings were drawing to a close), he issued Emergency Manager Order No. 42 restoring much of the power to the executive and legislative branches of city government, as well as Emergency Manager Orders No. 38, 39, 40 and 41 to expedite the restructuring of various City departments; and
- WHEREAS** Emergency Manager Order No. 41, *Order Establishing Centralized Financial Management Organizational Structure*, consistent with the dictates of Michigan Public Act 181 of 2014, amending the Home Rule City Act (specifically, MCL 117.4s), granted sweeping powers to the City’s Chief Financial Officer (CFO) establishing a centralized financial management organizational structure, called the Office of the Chief Financial Officer, to provide “management oversight, control, and direction to the existing Budget Department, Finance Department and all their subordinate components, and all finance, budget, and grant related components of other City departments, divisions, and agencies”; and
- WHEREAS** EM Order No. 41 grants the CFO “all of the authority and responsibilities of the Finance Director under Sections 6-301 and 6-302 of the City Charter and Budget Director under Section 6-101”, as well as creating “Divisions” of the Office of the CFO comprised of the former Offices of the Assessor, Treasury, Controller, Contracting and Procurement, Grants Management, Budget, and Financial Planning & Analysis; and
- WHEREAS** The City of Detroit’s receivership status was terminated upon the completion of the City’s bankruptcy case on the effective date of the Plan of Adjustment, December 10, 2014. Pursuant to Public Act 436 of 2012, City Council may amend orders implemented; and
- WHEREAS** With the City now nearly five years past its exit from bankruptcy and emergency management, and as the Mayor and City Council work effectively to advance the City’s recovery, including implementation of the Plan of Adjustment, it is time to fully restore essential checks and balances and transparency to the operations of City government; and
- WHEREAS** By resolution unanimously adopted on May 17, 2016, City Council revoked the CFO’s authority to unilaterally write off accounts receivable without City Council approval if the accounts are older than the statute of limitations, and restored

Council's contract approval authority pursuant to Charter section 4-122 and Detroit City Code section 18-5-21. Restoration of Council approval of these actions shines needed light on the City's fiscal workings; and

WHEREAS Like EM Orders 38, 40, and 42, EM Order No. 41 contains broad, ongoing restructuring provisions, granting the OCFO unbridled restructuring authority -- no longer necessary almost five years post-Emergency Management/Receivership. The provision, paragraph 10, is as follows:

Notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance, or practice to the contrary, including but not limited to the City's Civil Service Rules, the CFO shall have the authority to do the following in consultation with the Human Resource [sic] Department:

- a. Determine the placement of all finance, budget, and grants related positions, including the selection and removal of incumbents, within the Office of the CFO and other City departments, division and agencies;
- b. Create or modify job titles, roles, responsibilities and positions in support of the City's finance and budgeting functions, within the Office of the CFO and other City departments, divisions and agencies; and
- c. Make recruitment, hiring, retention, promotion, demotion, reassignment and any other related personnel decisions affecting the City's finance and budgeting functions.

In all events, the CFO shall comply with the terms of applicable collective bargaining agreements and provide required notices to impacted employees and labor unions, if applicable. . . . ;

and

WHEREAS The surgical revision of EM Order No. 41 restoring City Council's contract approval authority and specific accounts receivable write-offs did not impair the CFO's ability to expeditiously pursue and complete restructuring of the financial functions of the City as mandated by MCL 117.4s, did not impact implementation of the Plan of Adjustment, did not require a budget amendment, and had no fiscal impact on the City. Similarly, reverting back to a more transparent, pre-Emergency Management, manner of managing the City's finance related departments and functions, after almost five years of unhindered restructuring

activity, will have no negative effects on the City's fiscal health or continued success of the Plan of Adjustment. **NOW THEREFORE BE IT**

RESOLVED The Detroit City Council hereby revokes the continued restructuring authority granted to the CFO by EM Order No. 41, specifically contained in paragraphs ten (10) and thirteen (13). **AND BE IT FURTHER**

RESOLVED That a copy of this resolution shall be transmitted to the Chief Financial Officer and the Mayor's Office.

**RESOLUTION TO FURTHER REVISE EMERGENCY MANAGER
ORDER NO. 42: ORDER ADDRESSING ISSUES RELATING TO THE
CONCLUSION OF THE EMERGENCY MANAGER'S TENURE AND
TRANSITION OF CITY OPERATIONS TO THE MAYOR AND CITY COUNCIL**

WHEREAS In September 2014, as the Emergency Manager (EM) prepared to transition from his position and the City's bankruptcy proceedings were drawing to a close, he issued Emergency Manager Orders No. 38, 39, 40, 41 and 42 to expedite the restructuring of various City departments; and

WHEREAS Emergency Manager Order No. 42, *Order Addressing Issues Relating to the Conclusion of the Emergency Manager's Tenure and Transition of City Operations to the Mayor and City Council*, modifies, revokes, or supplements provisions of previous orders, and addresses responsibilities of the Mayor and City Council post-bankruptcy/emergency management by restoring the powers granted by the Home Rule City Act and the 2012 Charter of the City of Detroit. The Order effectively restores the authority of the Legislative Branch, but enhances powers of the Executive Branch; and

WHEREAS With the City now approaching five years past its exit from bankruptcy and emergency management, and as the Mayor and City Council work effectively to continue the City's recovery, a number of the EM Orders require additional modification or rescission to restore essential checks and balances to the operations of City government; and

WHEREAS EM Order No. 42, at paragraph 7, grants ongoing authority to the Mayor, beyond the dictates of the voter-adopted Charter of the City of Detroit, to restructure Executive Branch departments outside of the carefully enacted procedural constraints in the Charter, the City Code, and the City Service Rules, specifically stating:

Notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance or practice to the contrary, including, but not limited to, the City's Civil Service Rules, and with the approval of the Mayor and the Council in coordination with the Human Resources Department, the City may implement departmental restructurings not inconsistent with any other EM Order. These restructurings may grant department heads the authority to make hiring, retention, promotion, demotion, reassignment and any other related personnel decisions affecting their departments, in consultation with the Human Resources Department. Such reorganizations shall comply with the terms of

applicable collective bargaining agreements and provide required notices to impacted employees and labor unions, if applicable. . . ;
and

WHEREAS The City of Detroit's receivership status was terminated upon the completion of the City's bankruptcy case on the effective date of the Plan of Adjustment, December 10, 2014. Pursuant to Public Act 436 of 2012, City Council may amend orders implemented by the emergency manager at any time more than one (1) year after the termination of receivership; and

WHEREAS The City is nearly five years out from its emergence from bankruptcy and receivership. Adequate time for effective departmental restructuring has elapsed and it is imperative that transparency in government be restored. Revision of EM Order No. 42 to restore the balance contemplated by the 2012 City Charter, the City Code, the Civil Service Rules, and other established governmental rules and regulations, will have no fiscal impact on the City. EM Order No. 42, paragraph six, was previously revised by unanimous City Council resolution adopted on May 17, 2016. **NOW THEREFORE BE IT**

RESOLVED Notwithstanding any contrary provisions of Emergency Manager Order number 42 or Emergency Manager Order number 44, at paragraph 17, the provisions of EM Order No. 42, paragraph 7, granting the Administration, including department heads, ongoing extraordinary restructuring authority (with the exception of those powers of the Office of Chief Financial Officer granted pursuant to Public Act 181 of 2014) are revoked, and the provisions of the City Charter, City Code, Civil Service Rules, and any other relevant regulations or policies as they existed pre-Emergency Management are fully restored to the extent not otherwise amended by the Mayor and City Council pursuant to the City Charter; **AND BE IT FINALLY**

RESOLVED That a copy of this resolution shall be transmitted to the Corporation Counsel and the Mayor's Office.



CITY OF DETROIT OFFICE OF INSPECTOR GENERAL

28
Ellen Ha, Esq.
Inspector General

June 7, 2019

Via Email, Certified Return-Receipt and First Class Mail

Steve Fishman, Esq.
Ford Building
615 Griswold, Suite 1125
Detroit, Michigan 48226

RE: Report of Administrative Hearing and Final Determination of OIG Investigation File Nos. 16-0071-INV and 18-0031-INV

Dear Mr. Fishman:

This letter is being sent to your attention in accordance with Sections 18-11-7, 8 and 9 of the City of Detroit Debarment Ordinance to provide you with a copy of the City of Detroit Office of the Inspector General (OIG)'s Report of the Administrative Hearing and the Final Determination pertaining to the OIG Investigation File Nos. 16-0071-INV and 18-0031-INV. Please be advised that after having fully investigated this matter, the OIG has determined and is recommending that:

- 1) **Parimal (Perry) Mehta** be debarred for a period of 20 years for the reasons stated in the attached report effective September 30, 2016 and ending on September 30, 2036; and
- 2) **FutureNet Group, Inc. (FutureNet)** be debarred for a period of 15 years for the reasons stated in the attached report effective September 30, 2016 and ending on September 30, 2031.

As such, pursuant to Section 18-11-9 of the City of Detroit, we are filing a copy of this letter, along with the attached OIG's Report of the Administrative Hearing and the Final Determination with the City Clerk for transmission to City Council. The reasons for the recommended debarment for Mr. Mehta and FutureNet are contained in the attached OIG's Report.


Please note, pursuant to Section 18-11-4, no debarred contactor is eligible to serve as a subcontractor or as a goods, services or materials supplier for any City contract. This includes providing equipment, land, and employees to a City of Detroit contractor.

Therefore, in accordance with Section 18-11-7(b)(4), attached please find the City of Detroit Debarment Ordinance, which was previously mailed to you last year. Should you wish to appeal the OIG's final determination and/or the length of the debarment proceeding, please be advised that you or your representative must submit a written response within 28 days from today which would be Tuesday, July 5, 2019 with the City Clerk.

Please be advised the appeal letter together with any supporting materials must be filed with the City Clerk for transmission to City Council. Please note that the contractor may request an in person meeting with City Council, at which the contractor may be represented by legal counsel. See, Section 18-11-11 of the attached City of Detroit Debarment Ordinance.

Should you have any questions or concerns regarding the appeal process, please contact the OIG Attorney, Jennifer Bentley, at 313-628-5657.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ellen Ha', with a stylized flourish at the end.

Ellen Ha
Inspector General

Enclosures: **OIG's Report of Administrative Hearing and Final Determination
City of Detroit Debarment Ordinance**

CC Via Hand-Delivery: **Janice Winfrey, City Clerk**

CC via email only: **Lawrence Garcia, Corporation Counsel
David Whitaker, Director, Legislative Policy Division
Boysie Jackson, Chief Procurement Officer
Beth Niblock, Chief Information Officer**

City of Detroit

Office of the Inspector General

FutureNet Debarment Matter

OIG Case No. 2016-0071

June 7, 2019



Ellen Ha, Esq.
Inspector General

CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL

I. Final Recommendation

On March 27, 2019, the Office of Inspector General (OIG) held an administrative hearing for FutureNet Group, Inc. (FutureNet) and its CEO Parimal (Perry) Mehta. The purpose of the hearing was to provide FutureNet an opportunity to present evidence, testimony, and any supporting information in response to the OIG's preliminary finding that FutureNet and Mr. Mehta have not acted as responsible contractors and should both be debarred for twenty (20) years. After having reviewed all evidence and conducting an administrative hearing on the matter, the OIG's final recommendation is as follows:

- The initial recommendation that FutureNet be debarred for twenty (20) years be **AMENDED to fifteen (15) years with an effective date of September 30, 2016. The end date of the debarment is September 30, 2031.**
- The initial recommendation that Parimal "Perry" Mehta be debarred for twenty (20) years be **SUSTAINED. The end date of the debarment is September 30, 2036.**

II. Complaint

On September 28, 2016, the Office of Inspector General (OIG) received a complaint from the City of Detroit Law Department. The letter stated that on April 8, 2016, former Deputy Director of the City of Detroit's Department of Information Technology Services (DoIT), Charles L. Dodd, Jr., entered into a plea agreement with the Public Integrity Section of the United States Department of Justice for the crime of Federal Program Bribery. He subsequently pled guilty on September 27, 2016. Mr. Dodd admitted to soliciting and accepting cash payments totaling more than \$15,000 from Perry Mehta, CEO and President of FutureNet, a contractor that provided information technology services and personnel to the City of Detroit. It was requested that the OIG investigate both the conduct of Mr. Dodd as well as FutureNet.

The OIG investigation was placed on hold due to the ongoing criminal investigation. On September 14, 2018, the OIG reopened its file after Charles Dodd was sentenced to twenty (20) months in US District Court. Therefore, on September 17, 2018, the OIG sent Perry Mehta and FutureNet a letter informing them that the OIG was proposing they be debarred for the maximum allowed period of twenty (20) years pursuant to the City's Debarment Ordinance.

III. FutureNet Overview

a. Company Information

FutureNet provided information technology (IT) and consulting services to various clients. The company also engaged in the business of designing, manufacturing, installing, selling, and servicing antiterrorism force protection systems, including active and passive barrier systems and electronic monitoring products. It previously contracted with the City of Detroit to

provide technology resources in support of information technology related projects for DoIT as well as for other City agencies.¹ FutureNet was also awarded a sole source contract to assist the Building, Safety, Engineering, and Environmental Department (BSEED) with the implementation of a new software platform.²

At the time of the bribery of Mr. Dodd, Mr. Mehta was the President and CEO of FutureNet. On March 21, 2017, Perry Mehta resigned from

...all positions with Future Net Group, Inc. ("FutureNet") and FutureNet Security Solutions, LLC ("Security Solutions"). This includes me resigning from the positions of Chief Executive Officer ("CEO"), President, Board of Directors member, Chairman of the Board of Directors, and Facility Security Officer at FutureNet, and from the positions of CEO and Manager at Security Solutions.³

Also on March 21, 2017, FutureNet's Board appointed the following officers: Joginder Singh (CEO), Jignesh "Jay" Mehta (Senior Vice President), Krishal Dalal (Senior Vice President), Jeff Achten (Senior Vice President), and Brian Cooper (Vice President).⁴ On March 6, 2018, CEO Joginder Singh resigned as Chairman and CEO. Jay Mehta was elected by FutureNet's Board to serve as the Chairman and CEO and Krishal Dalal was elected to serve as the Director of the Board and Senior Vice President.⁵

Currently, FutureNet has no remaining assets or employees. On May 7, 2018, Wayne County Circuit Court appointed Basil Simon as receiver for FutureNet. This occurred after the company became substantially indebted to several lenders.⁶ To date, Mr. Simon has sold all divisions of FutureNet Group under his direct supervision to multiple independent companies. As a result, FutureNet does not have any remaining employees and is essentially a dormant company.⁷

b. Contracts with the City of Detroit

The City of Detroit has had various contracts with FutureNet to provide technical resources to various city agencies to assist with their technology initiatives.⁸ Most recently, the City of Detroit entered into Contract No. 2896739 with FutureNet whereby the company

¹ 2014-2016 Professional Services Contract No. 2896739 between the City of Detroit Information Technology Services Department and FutureNet Group, Inc., Exhibit A: Scope of Services, pg. 30.

² Professional Services Contract No. 6000772 between the City of Detroit and FutureNet Group, Inc.

³ Perry Mehta Resignation Letter dated March 21, 2017.

⁴ March 21, 2017 Board Resolution/ Joint Written Consent of the Board of Directors and Common Shareholders of FutureNet Group, Inc.

⁵ March 6, 2018 Board Resolution/ Written Consent Resolution in Lieu of Meeting of the Board of Directors

⁶ Detroit Investment Fund, L.P., and Chase Invest Detroit Fund, LLC. v. FutureNet Group, Inc., FutureNet Security Solutions, LLC, Motor City Developer, LLC, and Parimal D. Mehta, Case No. 18-004682-CB Wayne County Circuit Court. Circuit Court Judge Lita M. Popke. Order Appointing Receiver.

⁷ Steve Fishman email to the OIG dated April 23, 2019.

⁸ The OIG had a contract with FutureNet for web-based case management system for production of secured files and reporting. It was Contract No. 2876477 for the amount of \$58,600. The contract began on March 22, 2013 and ended on June 30, 2016.

provided technology resources in support of information technology related projects for DoIT as well as for other City agencies.⁹ The contract began on October 1, 2014 and terminated on September 30, 2016, with two (2) one-year renewal options. The contract amount was not to exceed \$6,091,200. On April 20, 2015, the contract was amended to increase the amount of the contract, not to exceed \$8,968,839.¹⁰

On June 13, 2017, the Detroit City Council approved Contract No. 6000772.¹¹ The purpose of the contract was for BSEED to implement Accela which is a software platform designed for use by government agencies to administer a variety of tasks, including licensing, inspections, permitting, and right of way management. FutureNet was selected as the prime vendor through a sole source justification meaning they were identified as the only potential provider. The justification stated in part

FNG is the only Detroit, Michigan based value added reseller for Accela solutions including Software license, maintenance, managed services, implementation and training services. For City of Detroit, FNG is only single prime vendor for all Accela solutions related services.

IV. Indictment and Guilty Pleas

a. Charles L. Dodd, Jr.

On September 27, 2016, Mr. Dodd pleaded guilty in the U.S. District Court for the Eastern District of Michigan to one count of federal program bribery.¹² On September 11, 2018, he was sentenced to twenty (20) months in prison, to be followed by two (2) years of supervised release, for accepting more than \$29,500 in bribe payments from two IT companies providing services and personnel to the City of Detroit.

According to admissions made in connection with his plea, Mr. Dodd held numerous supervisory positions with the City of Detroit, including his appointment as Director of DoIT in 2014. Mr. Dodd exercised supervisory authority over a staff of dozens of public servants and contractors. He also held significant influence over the administration of multi-million dollar contracts between the City of Detroit and private IT companies.¹³

⁹ 2014-2016 Technical Resources Contract No. 2896739 between the City of Detroit Information Technology Services Department and FutureNet Group, Inc., Exhibit A, Scope of Services, pg. 30.

¹⁰ City of Detroit Amendment Agreement No. 1 to Contract No. 2896739, pg. 2. The contract was approved by the Financial Review Commission (FRC) on April 20, 2015.

¹¹ Contract No. 6000772 was approved by the FRC on June 26, 2017.

¹² Department of Justice, U.S. Attorney's Office Eastern District of Michigan (2016, September 27). *Former Director of Detroit Office of Departmental Technology Services Pleads Guilty to Bribery* [Press Release]. Retrieved from <https://www.justice.gov/opa/pr/former-director-detroit-office-departmental-technology-services-pleads-guilty-bribery>

¹³ Department of Justice, U.S. Attorney's Office Eastern District of Michigan (2018, September 11). *Former Director of Detroit Technology Office Sentenced to Prison for Bribery* [Press Release]. Retrieved from <https://www.justice.gov/opa/pr/former-director-detroit-technology-office-sentenced-prison-bribery>

According to Mr. Dodd's Plea Agreement¹⁴ and the Government Sentencing Memorandum,¹⁵ he solicited and accepted cash totaling around \$15,000, a trip to North Carolina and other things of value from FutureNet President and CEO Perry Mehta. Mr. Dodd admitted that he accepted these things of value from Mr. Mehta intending to be influenced and rewarded in connection with FutureNet's efforts to obtain business with Detroit, and that he used his official influence to provide preferential treatment to FutureNet in exchange for these things.

b. Perry Mehta

On May 30, 2018, Perry Mehta pleaded guilty to 18 U.S.C § 666(a)(2) Federal Program Bribery in the United States District Court for the Eastern District of Michigan. Mr. Mehta admitted that beginning in approximately 2009, and continuing through about August 2016, he gave, offered, and agreed to give things of value to Mr. Dodd in exchange for official acts which would benefit FutureNet. The official acts included the selection of FutureNet personnel to fill open positions in various city departments and the selection of FutureNet to implement particular technological projects in various city departments. Mr. Mehta also asked Mr. Dodd to provide confidential information regarding Detroit's internal operations and to expedite payments to FutureNet from Detroit.¹⁶

V. Administrative Hearing

On October 10, 2016, the OIG sent a letter to Mr. Mehta to inform him that on September 28, 2016, the OIG initiated an investigation into the circumstances surrounding the September 27, 2016 guilty plea of Mr. Dodd. The letter specified the basis of the OIG investigation was Mr. Dodd's admission to accepting more than \$29,500 in unlawful payments from two (2) information technology companies providing services and personnel to the City of Detroit, one of those companies being FutureNet.

The OIG investigation was subsequently placed on hold due to the ongoing federal investigation. On September 14, 2018, the OIG reopened the case after Mr. Dodd was sentenced. Based on the evidence gathered by the OIG, we found that FutureNet and Mr. Mehta are not a responsible contractors. Therefore, in a letter dated September 17, 2018, the OIG advised FutureNet and Mr. Mehta that we were initiating debarment proceedings. On October 15, Steve Fishman, Mr. Mehta and FutureNet's attorney, responded to the proposed debarment on behalf of his clients.

On November 9, 2018, the OIG offered FutureNet and Mr. Mehta the opportunity to have an administrative hearing to present evidence and testimony in response to the OIG findings. Section 7.5-311 of the Charter provides that "[n]o report or recommendation that criticizes an official act shall be announced until every agency or

¹⁴ Plea Agreement as to Charles L. Dodd Jr., United States of America v. Charles L. Dodd Jr., Case No. 2:16-cr-20629 (E.D. Mich. September 27, 2016).

¹⁵ Government Sentencing Memorandum as to Charles L. Dodd Jr., United States of America v. Charles L. Dodd Jr. Case No. 2:16-cr-20629 (E.D. Mich. August 28, 2018).

¹⁶ Plea Agreement as to Parimal Mehta, United States of America v. Parimal D. Mehta, a/k/a "Perry Mehta," Case No. 3:18-cr-20060 (E.D. Mich. May 30, 2018).

person affected is allowed a reasonable opportunity to be heard at a hearing with the aid of counsel.”

a. FutureNet and Perry Mehta

On October 15, 2018, Mr. Fishman asked that the OIG delay making its final decision until after Mr. Mehta’s December 3, 2018 sentencing hearing. In a separate email dated October 26, 2018, Mr. Fishman stated that he was urging the OIG to consider Mr. Mehta’s conduct as separate and distinct from FutureNet as a whole. He stated that he believed the OIG would have more information about the critical issues once we had access to (1) Mr. Mehta’s sentencing memorandum; (2) the government’s memorandum; and (3) the transcript of the hearing which would include the judge’s comments. On October 29, 2018, the OIG agreed to postpone the hearing until the above-mentioned documentation could be obtained.

On January 29, 2019, Mr. Fishman provided the transcript of the sentencing hearing. Mr. Mehta’s sentencing memorandum as well as the government’s memorandum were also provided to the OIG. On February 8, 2019, he requested an administrative hearing for both FutureNet and Mr. Mehta. The hearing was held on March 27, 2019. FutureNet and Mr. Mehta were asked to provide any evidence or testimony that evidenced they are responsible contractors. Mr. Fishman provided additional documentation and presented information on behalf of his clients at the hearing. He called no witnesses.

b. Jay Mehta

On October 13, 2016, the OIG sent a letter to Jignesh “Jay” Mehta to inform him that on September 28, 2016, the OIG initiated an investigation into the circumstances surrounding the September 27, 2016 guilty plea of Mr. Dodd. At the time the bribery occurred, Jay Mehta was the Senior Vice President of FutureNet. The letter specified the basis of the OIG investigation was Mr. Dodd’s admission to accepting more than \$29,500 in unlawful payments from two (2) information technology companies providing services and personnel to the City of Detroit, one of those companies being FutureNet.

The OIG investigation was subsequently placed on hold due to the ongoing federal investigation. On September 14, 2018, the OIG reopened the case after Mr. Dodd was sentenced. Based on the evidence gathered by the OIG, as of September 14, 2018, we found that Jay Mehta is not a responsible contractor and thus the OIG was recommending discipline up to and including debarment.

Therefore, on September 17, 2018, the OIG sent a letter to Jay Mehta’s attorney, Marshall Goldberg, notifying him of the initiation of debarment proceedings. He was also notified that, if his client wished to oppose the debarment, a response was required no later than October 15, 2018. On October 12, 2018, Mr. Goldberg requested an extension to respond and the OIG denied the request in accordance with the City’s Debarment Ordinance. However, at that time, the OIG agreed to accept any supplemental response in addition to the October 15th response, the official deadline date in accordance with the City’s ordinance.

The OIG did not receive a response from Jay Mehta or his attorney. Therefore, on October 16, 2018, the OIG emailed Mr. Goldberg to confirm no response was received by the OIG. On November 5, 2018, the OIG sent Mr. Goldberg a letter stating that since the initiation of debarment proceedings against his client was unopposed, Jay Mehta was debarred for the maximum penalty of twenty (20) years, with an effective date of September 30, 2016 and an end date of September 30, 2036.

VI. Debarment Analysis

Debarment is reserved for city contractors who have been found to have engaged in improper, unethical, or illegal conduct related to their contractual agreement with the City of Detroit. The purpose of the Debarment Ordinance is to ensure that the City of Detroit solicits offers from, awards contracts to, consents to subcontracts with, or otherwise does business with responsible contractors only. Debarment is to be imposed only when it is in the public interest.¹⁷ There is no statute of limitations on investigations, findings of violation of the debarment policy or the initiation of debarment proceedings.¹⁸

The OIG's initial findings regarding FutureNet and Perry Mehta not being responsible contractors were based on Mr. Mehta's and FutureNet's conduct of bribing Mr. Dodd. In response to the initiation of debarment proceedings, Mr. Fishman argued that since "Mr. Mehta is solely responsible for his misconduct, neither FutureNet nor any other member of FutureNet should be punished."¹⁹ However, Mr. Mehta and FutureNet cannot be considered separate and distinct. While the bribery was occurring, Mr. Mehta was the Chairman, CEO, and President of FutureNet. His actions resulted in direct financial benefit to the company. Additionally, FutureNet did not have the proper policies and procedures in place to prevent or detect the bribery scheme which lasted from approximately 2009 through August of 2016.

In Defendant's *Motion for Variance*, it was argued that Mr. Mehta's case was different from the "ordinary bribery case," which lends support to a lenient sentence for Mr. Mehta.²⁰ Mr. Fishman argued the following points:

1. FutureNet was a long-established contractor dating back prior to Mr. Dodd's employment with the City of Detroit.
2. FutureNet received the City contracts in open competition and because of its performance.
3. The City of Detroit received full value for the services provided by FutureNet and those services, particularly involving the Accela contract, saved the City money.
4. It cannot be argued that FutureNet received the Accela contract because of anything having to do with the relationship between Mr. Mehta and Mr. Dodd.

¹⁷ Debarment Ordinance, Section 18-11-1. Purpose.

¹⁸ Debarment Ordinance, Section 18-11-5(c). Grounds for Debarment.

¹⁹ Letter from Mr. Fishman to the OIG Re: OIG Investigation File Nos. 2016-CC-0071 and 18-0031-INV dated October 15, 2018.

²⁰ *Motion for Variance*, United States of America v. Parimal D. Mehta, Case No. 3:18-cr-20060 (E.D. Mich. May 30, 2018), pg. 4-5.

5. Mr. Mehta and Mr. Dodd had a longstanding, friendly relationship that included socializing.²¹

The OIG finds these arguments unpersuasive in making its final debarment decision. Based on the evidence presented in court pleadings, Mr. Mehta's case was not different from the "ordinary bribery case" in both his actions and the harm it caused to the public trust. The actions of Mr. Mehta outlined in the *Government Sentencing Memorandum* dated November 19, 2018 are deeply troubling and reinforce Mr. Mehta and FutureNet's inability to act as responsible contractors. According to the *Government Sentencing Memorandum*, Mr. Mehta engaged in the following conduct:

- For approximately seven (7) years, Mr. Mehta bribed Mr. Dodd to obtain lucrative city business and confidential city information by providing Mr. Dodd with money, travel, gifts, and jobs for family members.²²
- On December 15, 2014, Mr. Mehta sought confidential information from Mr. Dodd to support FutureNet's proposal to implement Accela at BSEED. Mr. Mehta requested that Mr. Dodd "expedite this agreement." In response, Mr. Dodd advocated for FutureNet to city officials. He also provided Mr. Mehta with confidential information which Mr. Mehta then used in a meeting with city officials where they discussed "various aspects of purchasing and implementing [the] entire Accela solution." Soon after, FutureNet was awarded the sole source Accela contract.²³
- At the same time, and continuing through September 2016, FutureNet submitted proposals to implement and support Accela with other Detroit city agencies, which would result in millions of dollars in potential revenue for FutureNet. While these FutureNet proposals were pending, Mr. Mehta regularly met Mr. Dodd to exercise his influence in these matters and paid him bribes.²⁴
- During summer 2016, Mr. Dodd provided Mr. Mehta confidential budgetary information which Mr. Mehta used in negotiating with the Detroit Department of Public Works (DPW) and the Detroit Water and Sewerage Department (DWSD).²⁵ At a later date, Mr. Mehta requested the internal budgetary information for the Detroit Health Department (DHD) and the Housing and Revitalization Department (HRD) to use in FutureNet's Accela proposal to these City agencies.²⁶

As detailed above, the reasons given for Mr. Mehta's leniency in his criminal case do not support a reduction in the length of debarment proposed by the OIG against Mr. Mehta. FutureNet, through Mr. Mehta, used confidential budgetary information to help it secure the Accela contract. These actions cannot be considered as fair, competitive, or transparent. Mr.

²¹ *Id.* at 5-6.

²² *Id.* at 1.

²³ *Id.* at 4.

²⁴ *Id.* at 5.

²⁵ *Id.*

²⁶ *Id.* at 6-7.

Fishman argued that FutureNet was the only authorized Accela seller in the City of Detroit.²⁷ However, the City was considering using the State of Michigan's existing Accela contract. Therefore, it was not a given that FutureNet would have been awarded the contract without the assistance of Mr. Dodd.

Mr. Fishman also argued that the City of Detroit did not suffer a financial loss.²⁸ Indeed, no restitution was sought by the US Attorneys' Office from Mr. Mehta or FutureNet. However, the OIG is not convinced by this argument because it would be difficult, if not impossible, to calculate any potential financial loss to the City of Detroit. In addition to the Accela contract, the City contracted with FutureNet to provide IT personnel. It is unknown if any FutureNet personnel were hired at Mr. Dodd's urging despite other qualified, and perhaps for less amount through other IT personnel agencies.

While it is unknown if the City of Detroit suffered any actual financial loss by contracting with FutureNet, the loss of public trust and confidence in the City's contractual process cannot be underestimated. The public's trust is diminished anytime a public servant is corrupted. It weakens the citizens' confidence in the City of Detroit's bidding and contracting process as well as their confidence in the ability of public servants to act in the best interest of the public. Therefore, the OIG finds that it is not in the best interest of the City of Detroit or its citizens to continue to do business with Mr. Mehta and FutureNet.

a. Changes in Ownership and Leadership

On March 21, 2017, Perry Mehta submitted his resignation letter which stated that he resigned from

all positions with Future Net Group, Inc. ("FutureNet") and FutureNet Security Solutions, LLC ("Security Solutions"). This includes me resigning from the positions of Chief Executive Officer ("CEO"), President, Board of Directors member, Chairman of the Board of Directors, and Facility Security Officer at FutureNet, and from the positions of CEO and Manager at Security Solutions.

Also on March 21, 2017, the Board of Directors for FutureNet passed the *Board Resolution/ Joint Written Consent of the Board of Directors and Common Shareholders of FutureNet Group, Inc.* which appointed the following officers: Joginder Singh (CEO), Jay Mehta (Senior Vice President), Krishal Dalal (Senior Vice President), Jeff Achten (Senior Vice President), and Brian Cooper (Vice President). The officers again changed through a *Board Resolution/ Written Consent Resolution* on March 6, 2018. At that time, CEO Joginder Singh resigned as Chairman and CEO, Jay Mehta was elected to serve as the Chairman and CEO, and Krishal Dalal was elected to serve as the Director of the Board and Senior Vice President.

²⁷ Transcript of Administrative Hearing at 11, In Matter of: OIG Case No. 2016-0071 Debarment Matter, dated March 27, 2019.

²⁸ *Id.* at 8.

Though Perry Mehta ceased to have a role in the day-to-day operation of FutureNet beginning in March 2017, all of the above individuals held positions with the company during the ongoing bribery of Mr. Dodd. They benefited from Mr. Mehta's illegal actions and failed to put policies and procedures in place to prevent and detect such behavior from occurring. Additionally, Jay Mehta, who did not oppose his debarment, is now the Chairman and CEO of the company. Therefore, the OIG finds that these changes are not enough to demonstrate that FutureNet can act as a responsible contractor.

Further, Perry Mehta continued to have an ownership interest in the company for over a year after he resigned from FutureNet. In a letter dated March 26, 2018, Mr. Mehta stated that he "transferred the 100% ownership of [his] equity interest for FutureNet Group and subsidiaries including FutureNet Security Solutions, LLC to an independent trust." The beneficiaries of the trust are Mr. Mehta's children.²⁹ Though Mr. Mehta divested his ownership in FutureNet, it was not an arm's length transaction. He merely gave his ownership to his children. Additionally, he did not give up his ownership until over a year after he resigned and only a few months before the Wayne County Circuit Court appointed Basil Simon as the receiver. Mr. Simon was charged with managing the entire operations of the company including disposition of company assets due to FutureNet becoming substantially indebted to several lenders.

b. Remedial Actions Taken by FutureNet

FutureNet has taken some remedial measures to prevent future wrongdoing. The remedial measures taken include updating the *Employee Handbook* to provide employees with an overview of FutureNet's code of ethics and conflict of interest policy as well as requiring employees to watch an ethics training video. Employees are now required to sign an acknowledgement that they received the handbook and video training.

However, these actions were not taken on FutureNet's own initiative. The company undertook these remedial measures as part of an Administrative Agreement between the United States Department of Justice (DOJ) and FutureNet which was entered into on April 17, 2017. The DOJ required FutureNet to make changes due to the bribery scheme in order to be eligible to bid on federal contracts.

Nevertheless, because FutureNet has taken steps to prevent future wrongdoing and because we want to encourage wrongdoers to change and to correct their paths, we do not recommend the maximum debarment of twenty (20) years in this instance. FutureNet has fully cooperated with the OIG investigation and has provided the OIG with evidence that it has taken steps to institute new policies and procedures aimed at preventing improper, unethical, and illegal conduct from occurring in the future. For these reasons, the OIG finds that a period of fifteen (15) years is an appropriate length of debarment. If FutureNet had taken the steps to prevent wrongdoing on their own initiative, the OIG would have considered an even shorter period of debarment.

²⁹ Steve Fishman email to the OIG dated April 23, 2019.

VII. Conclusion

Based on the evidence above, the OIG finds that FutureNet and Perry Mehta are not responsible contractors. Mr. Mehta engaged in improper, unethical, and illegal conduct in the City of Detroit contracting process at the expense of the citizens of Detroit. Though FutureNet has started to take steps to prevent this from occurring in the future, more needs to be done. Additionally, Jay Mehta, who did not oppose his proposed debarment, is the current Chairman and CEO of FutureNet. The Debarment Ordinance prohibits any person who is currently debarred from doing business with the City as a contractor or subcontractor.

FutureNet's conduct under Perry Mehta's leadership and its continued ties to Jay Mehta, cannot easily be dismissed. Every action a contractor takes or does not take has consequences and every contractor must be held accountable for actions taken and not taken. The OIG is tasked with ensuring that the City solicits offers from and awards contracts to responsible contractors only. The serious nature of debarment requires that it is only imposed when it is in the public interest. Therefore, the OIG finds debarment to be in the public interest in this instance.

Section 18-11-12(a) of the Debarment Ordinance states that

The period for debarment shall be commensurate with the seriousness of the cause or causes therefore, but in no case shall the period exceed 20 years. Generally, debarment should not exceed five years, except: (1) Debarment for convictions of criminal offenses that are incident to the application to, or performance of, a contract or subcontract with the City, including but not limited to... bribery, falsification or destruction of records...

The OIG wants to encourage companies whose leadership and employees engage in improper, unethical, or illegal behavior to proactively identify deficiencies within their companies that allowed such behavior to occur and correct it. These companies should also act swiftly and decisively against those whose actions are in question. FutureNet has changed their policies and procedures in an attempt to prevent future issues. However, the company acted due to an Administrative Agreement with the DOJ and not on their own volition. Based on these reasons, the OIG finds that Perry Mehta should be debarred from contracting and subcontracting with the City of Detroit for a period of twenty (20) years and FutureNet should be debarred from contracting and subcontracting with the City of Detroit for a period of fifteen (15) years.